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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,253	02/08/2002	Geer Schuren	01/020 TRE	3327
	7590 02/27/2004		EXAMINER	
ProPat, L.L.C. 2912 Crosby Road Charlotte, NC 28211-2815			LE, HOA T	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,253

Applicant(s)

SCHUREN ET AL.

Examiner

H. T. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-13 and cancellation of non-elected claims 14-17 are acknowledged.

Claim Rejections - 35 USC § 112

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the phrase "in particular" in the claim preamble renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. Line 6, "hot curing binder" has no clear antecedent basis as only "binder" is previously recited. In addition, it is unclear whether the claimed "thickness of the fibers" constitutes the thickness of an individual fiber or of a strand of fibers.

In claim 5, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitation following the phrase is part of the claimed invention. See MPEP § 2173.05(d). In addition, claim 5 is indefinite because a broad range, 1 to 250 μm , together with a narrower range, 5 to 50 μm , fail to clearly set forth the metes and bounds of the patent protection. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and

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Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949).

In claim 6, the phrase "inter alia" renders the claim indefinite for the same reason set forth in claim 5 above with regard to the phrase "in particular".

In claim 7, the phrase "such as" renders the claim indefinite for the same reason set forth in claim 5 above with regard to the phrase "in particular".

Claim 8 suffers the same deficiency of claim 5.

In claim 10, there is no clear antecedent basis for "inorganic filler".

In claim 11, there is no clear antecedent basis for "organic filler".

Other claims are deemed indefinite in view of their dependency upon claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clarke et al (US 4,379,194) in view of Osborn et al (US 4,251,576).

Clarke et al disclose a decorative laminate comprising a core layer comprising cellulosic fibers, pulverized filler and a thermosetting resin as a binder. See col. 4, lines 10-15. Thermosetting is a curable resin. Thus Clarke teaches the decorative sheet as claimed except Clarke does not teach the relationship in dimensions between the particulate filler and the fibers. This teaching can be found in the Osborn reference (US 4,251,576). Osborn teaches that to achieve a high loading amount of fibers in a composite material that comprises fibers, fillers and a binder, the relationship between the fibers and the fillers should be such that the diameter of the particulate fillers must be smaller than the thickness of the fiber strands. See col. 18, lines 30-44. Therefore, it would have been obvious for one having skill in that to select particulate fillers that have particle size smaller than the thickness of the fibers in order to attain at a composite containing high concentration of fibers if such high loading of fibers in a composite is desired.

Claims 2 and 3: see Clarke, col. 4, lines 12-17.

Claims 4 and 6: see Osborn, col. 5, line 1-11.

Claims 4 and 7: See Clarke, col. 6, lines 6-11.

Claim 5: See Clarke, col. 6, lines 12-17 or Osborn, col.5, lines 12-15.

Claims 8-12: The properties of the composite as claimed appear to be the properties of the composite taught by the references as well as the composite taught by the references contain

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the same ingredients in the same proportions as discussed above in the rejections of claims 2-7.


Claim 13: See Clarke, col. 1, lines 46-59.

5. Other references are cited as art of interest.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


H. T. Le
Primary Examiner
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